

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 09/29/2016
---

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	
JULIAN SILVA,	:	
	:	
Petitioner,	:	1:15-cv-9032-GHW
-v -	:	
	:	<u>ORDER ADOPTING REPORT</u>
MICHAEL CAPRA,	:	<u>AND RECOMMENDATION</u>
	:	
Respondent.	:	
-----	X	

GREGORY H. WOODS, United States District Judge:

On November 17, 2015, *pro se* Petitioner, Mr. Juan Silva, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (the “Petition”). Dkt. No. 2. On February 8, 2016 Respondent filed an opposition to the Petition, and on March 15, 2016, Petitioner filed his reply. Dkt. Nos. 15, 17. By order dated January 13, 2016, the Court referred this matter to Magistrate Judge Netburn for a Report and Recommendation (“R&R”). Dkt. No. 13. Judge Netburn issued her R&R on August 30, 2016, recommending that the Petition be denied. R&R at 26, Dkt. No. 20. The R&R advised that “[t]he parties have fourteen days from the service” of the R&R “to file written objections pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure.” R&R at 26. No party has lodged objections to the R&R, and the time to do so has expired.

In reviewing an R&R, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). A district court must “determine de novo any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3); *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). If no timely objections are made, however, “a district court need only satisfy itself that there is no clear

error on the face of the record.” *King v. Greiner*, No. 02 Civ. 5810, 2009 WL 2001439, at \*4 (S.D.N.Y. July 8, 2009) (citation omitted); *see also Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).


After reviewing the record, the Court finds no clear error in Judge Netburn’s well-reasoned and careful R&R. Accordingly, the Court adopts the R&R in its entirety, and, for the reasons set forth therein, denies the Petition for a writ of habeas corpus. Because Petitioner has failed to make a substantial showing of a denial of a constitutional right,” a certificate of appealability will not issue. *See Slack v. McDaniel*, 529 U.S. 473, 483 (2000) (quoting § 2253(c)).

The Clerk of Court is directed mail a copy of this order to Petitioner by certified mail and to close this case.

SO ORDERED.

Dated: September 29, 2016  
New York, New York

---



GREGORY H. WOODS  
United States District Judge